

TOWNSHIP OF RARITAN  
COUNTY OF HUNTERDON, NEW JERSEY

ORDINANCE No. 24-7

An Ordinance of the Township of Raritan Amending Chapter 296 entitled “Land Development” of *The Code of the Township of Raritan* to Creating a New Part 6 entitled “Tree Removal-Replacement” Adopting and Establishing the NJDEP Tree Removal and Replacement Regulations.

**BE IT ORDAINED** by the Township Committee of the Township of Raritan, in the County of Hunterdon and State of New Jersey, as follows:

**Section 1.** Chapter 296 entitled “Land Development” of *The Code of the Township of Raritan* is hereby supplemented and amended to create new Part 6 to be entitled “Tree Removal-Replacement” read as follows:

**Part 6 Tree Removal-Replacement**

**Article XXVI Tree Removal and Replacement Regulations**

**§296-221. Purpose.**

The purpose of this Article is to establish requirements for tree removal and replacement in the Township of Raritan to reduce soil erosion and pollutant runoff, promote infiltration of rainwater into the soil, and protect the environment, public health, safety, and welfare.

**§296-222. Definitions.**

For the purpose of this Article, the following terms, phrases, words, and their derivations shall have the meanings stated herein unless their use in the text of this ordinance clearly demonstrates a different meaning. When consistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The use of the word "shall" means the requirement is always mandatory and not merely directory.

- A. “Applicant” means any “person”, as defined below, who applies for approval to remove trees regulated under this ordinance.

- B. “Critical Root Radius (CRR)” – means the zone around the base of a tree where the majority of the root system is found. This zone is calculated by multiplying the diameter at breast height (DBH) of the tree by 1.5 feet. For example: a tree with a 6” DBH would have a  $CRR = 6'' \times 1.5' = 9'$ .
- C. “Diameter at Breast Height (DBH)” means the diameter of the trunk of a mature tree generally measured at a point four and a half feet above ground level from the uphill side of the tree. For species of trees where the main trunk divides below the 4 ½ foot height, the DBH shall be measured at the highest point before any division.
- D. “Hazard Tree” means a tree or limbs thereof that meet one or more of the criteria below. Trees that do not meet any of the criteria below and are proposed to be removed solely for development purposes are not hazard trees.
1. Has an infectious disease or insect infestation;
  2. Is dead or dying;
  3. Obstructs the view of traffic signs or the free passage of pedestrians or vehicles, where pruning attempts have not been effective;
  4. Is causing obvious damage to structures (such as building foundations, sidewalks, etc.); or
  5. Is determined to be a threat to public health, safety, and/or welfare by a certified arborist or Licensed Tree Expert (LTE).
- E. “Person” means any individual, resident, corporation, utility, company, partnership, firm, or association.
- F. “Planting strip” means the part of a street right-of-way between the public right-of-way and the portion of the street reserved for vehicular traffic or between the abutting property line and the curb or traveled portion of the street, exclusive of any sidewalk.
- G. “Resident” means an individual who resides on the residential property or contractor hired by the individual who resides on the residential property where a tree(s) regulated by this ordinance is removed or proposed to be removed.
- H. “Street Tree” means a tree planted in the sidewalk, planting strip, and/or in the public right-of-way adjacent to (or specified distance from) the portion of the street reserved for vehicular traffic. This also includes trees planted in planting strips within the roadway right-of-way, i.e., islands, medians, pedestrian refuges.
- I. “Tree” means a woody perennial plant, typically having a single stem or trunk growing to a considerable height and bearing lateral branches at some distance from the ground.

- J. “Tree Caliper” means the diameter of the trunk of a young tree, measured six (6) inches from the soil line. For young trees whose caliper exceeds four (4) inches, the measurement is taken twelve (12) inches above the soil line.
- K. “Tree removal” means to kill or to cause irreparable damage that leads to the decline and/or death of a tree. This includes, but is not limited to, excessive pruning, application of substances that are toxic to the tree, over-mulching or improper mulching, and improper grading and/or soil compaction within the critical root radius around the base of the tree that leads to the decline and/or death of a tree. Removal does not include responsible pruning and maintenance of a tree, or the application of treatments intended to manage invasive species.

**§296-223. Regulated Activities.**

A permit shall be required when the project involves one or more of the follows:

- A. The removal or cutting of any tree, regardless of size, within any Township right-of-way or on any Township-owned property, except when performed by or on behalf of the Township.
- B. Tree removal of any street tree with DBH of 2.5” or more or any non-street tree with DBH of 6” or more on their property.
- C. Tree removal of trees with DBH of 2.5” or more where the number of trees to be cut in a year on the subject lot is greater than ten (10%) percent of the trees on the property or if the number of trees to be cut exceeds ten (10).
- D. Tree removal within habitat areas designated in the Township Master Plan or on slopes of twenty five (25%) percent or more.
- E. No tree shall be removed until municipal officials have reviewed and approved the removal through the issuance of a permit or acknowledgement of an exemption herein.
- F. Permit Submission Requirements. The following information/documentation shall be submitted in support of all permit applications pursuant to this Article, which shall be submitted to and reviewed by the Township Land Use Enforcement Officer, with consultation with the Township Engineer, if deemed necessary:
  - 1. A completed permit application form describing the proposed tree removal.
  - 2. The estimated start date and estimated duration of the proposed tree removal.
  - 3. A map/survey of the area to be disturbed, in an acceptable scale, prepared by an appropriate professional. The map should include the area of disturbance as well as an area of one hundred (100') feet beyond the disturbance limits.

4. A map/survey indicating the location of all trees to be removed. The size and species of these trees shall also be indicated.
5. A copy of any Resolution of Approval issued by either the Planning Board, Zoning Board of Adjustment, or Board of Health for the subject property, if applicable. Applications filed with the Raritan Township Planning Board and Zoning Board of Adjustment shall continue to comply with the site plan submission requirements of Section 296-73 all tree preservation requirements.
6. Any additional data that may be required by the Township Land Use Enforcement Officer, Township Engineer or other appropriate Township official in reviewing the application.
7. All applications shall be accompanied by a fee as set forth in the Tree Replacement Requirements Table below.

The Township Land Use Enforcement Officer, Township Engineer or other appropriate Township official may waive the requirement for the submission of any of the above, including the acceptance of an informal map in lieu of a certified survey, based on an adequate demonstration by the applicant that the information is not required for the review of the application.

- G. Permits shall be valid for a period of six (6) months from the date of issue.

**§296-224. Tree Replacement Requirements.**

- A. Any person who removes one or more street tree(s), as defined as Tree removal, with a DBH of 2.5” or more, unless exempt under Section 296-225, shall be subject to the requirements of the Tree Replacement Requirements Table below.
- B. Any person who removes one or more tree(s), as defined as Tree removal, with a DBH of 6” or more per acre, unless exempt under Section 296-225, shall be subject to the requirements of the Tree Replacement Requirements Table.
- C. The species type and diversity of replacement trees shall be in accordance with the recommended native tree species set forth in the Township’s list on file in the Township Clerk’s office pursuant to Section 296-75(U).
- D. Replacement tree(s) shall:
  1. Be replaced in kind with a tree that has an equal or greater DBH than tree removed or meet the Tree Replacement Criteria in the table below;
  2. Be planted within twelve (12) months of the date of removal of the original tree(s) or at an alternative date specified by the Township;

3. Be monitored by the applicant for a period of two (2) years to ensure their survival and shall be replaced as needed within twelve (12) months;
4. Shall not be planted in temporary containers or pots, as these do not count towards tree replacement requirements; and
5. Be in compliance with Section 296-75(T).

<b>Tree Replacement Requirements Table</b>			
<b>Category</b>	<b>Tree Removed (DBH)</b>	<b>Tree Replacement Criteria (See Appendix A)</b>	<b>Application Fee</b>
1	DBH of 2.5" (for street trees) or 6" (for non-street trees) to 12.99"	Replant 1 tree with a minimum tree caliper of 1.5" for each tree removed	\$100.00
2	DBH of 13" to 22.99"	Replant 2 trees with minimum tree caliper of 1.5" for each tree removed	\$100.00
3	DBH of 23" to 32.99"	Replant 3 trees with minimum tree caliper of 1.5" for each tree removed	\$100.00
4	DBH of 33" or greater	Replant 4 trees with minimum tree caliper of 1.5" for each tree removed	\$100.00
5	Specimen and Historic Trees of DBH 24" or greater	Replant tree for tree at a size of caliper inch per caliper inch pursuant to Section 296-75(T)	\$100.00

**E. Replacement Alternatives.**

1. If it is determined that some or all required replacement trees cannot be planted on the property where the tree removal activity occurred, then the applicant shall do one of the following:
  - a. Plant replacement trees in a separate area(s) approved by the municipality.
  - b. Pay a fee of (amount to be set by municipality) per tree removed as set forth in the Tree Replacement Schedule in Section 296-75(T)(5). This fee shall be placed into a fund dedicated to tree planting and continued maintenance of the trees.

**§296-225. Exemptions.**

All persons shall comply with the tree replacement standard outlined herein, except in the cases detailed below. Proper justification shall be provided, in writing, to the Township by all persons claiming an exemption, which justification may be in the form of photos, statements or opinions

from NJ licensed tree experts (pursuant to N.J.S.A. 45:15C-11) or arborist, as deemed necessary by the reviewing Township official based on the exemption claimed.

- A. Residents who remove less than four (4) trees per acre that fall into category 1, 2, or 3 of the Tree Replacement Requirements Table within a five-year period. [The number of trees removed is a rolling count across a five-year period. For example, if 3 trees from category 1 are removed in July 2023, the ‘count’ resets to zero in July 2028. However, if 1 tree from category 1 is removed in July 2023 and another in July of 2025 the first tree will come off the count in July 2028 and the second in July 2030.]
- B. Tree farms in active operation, nurseries, fruit orchards, and garden centers;
- C. Properties used for the practice of silviculture under an approved forest stewardship or woodland management plan that is active and on file with the municipality;
- D. Any trees removed as part of a municipal or state decommissioning plan. This exemption only includes trees planted as part of the construction and predetermined to be removed in the decommissioning plan.
- E. Any trees removed pursuant to a New Jersey Department of Environmental Protection (NJDEP) or U.S. Environmental Protection Agency (EPA) approved environmental clean-up, or NJDEP approved habitat enhancement plan;
- F. Approved game management practices, as recommended by the State of New Jersey Department of Environmental Protection, Division of Fish, Game and Wildlife;
- G. Hazard trees may be removed with no fee or replacement requirement;
- H. Removal of invasive, non-native species of trees, such as, without limitation, Tree of Heaven, Bradford Pear, and Norway Maple.
- H. Removal of trees by or on behalf of the Township of Raritan.

**§296-226. Enforcement.**

This Article shall be enforced by the Raritan Township Police Department, Land Use Enforcement Officer, Zoning Officer and/or a Township Arborist, if such position is established, during the course of ordinary enforcement duties.

**§296-227. Violations and Penalties.**

Any person(s) who is found to be in violation of the provisions of this Article shall be subject to the fines and penalties in an amount equal to the cost for the replacement of the tree, but shall not be less than the amount of the required replacement tree(s) and cost of planting. A penalty for a violation of this Article may also require the planting of additional trees in lieu of a fine.

**Section 2.** Section 296-75(S)(2) of Section 296-75 entitled “Site plan design standards” of Article XI entitled “Site Development Standards” of Chapter 296 entitled “Land Development” of *The Code of the Township of Raritan* is hereby supplemented and amended to read as follows: [New language in **bold and underline**; and deleted language in ~~double strikethrough.~~]

**§296-75. Site plan design standards.**

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S. Tree removal.

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(2) No more than 55% of the existing mature woodland tree canopy within the property boundaries shall be removed (not to be interpreted as 55% of the total lot area), **unless variance relief is granted by the appropriate land use board pursuant to N.J.S.A. 40:55D-70.** The location of the remaining 45% of the mature woodland tree canopy to be preserved shall be noted on the landscape plan. Steep slope limits of disturbance and maximum hard surface requirements under Schedule I shall supersede this subsection when appropriate.

**Section 3.** Section 296-75(T)(5) of Section 296-75 entitled “Site plan design standards” of Article XI entitled “Site Development Standards” of Chapter 296 entitled “Land Development” of *The Code of the Township of Raritan* is hereby supplemented and amended to read as follows: [New language in **bold and underline**; and deleted language in ~~double strikethrough.~~]

**§296-75. Site plan design standards.**

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T. Tree replacement and reforestation.

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(5) Tree replacement scheduled.

- a. The number of replacement trees shall be the equivalent of **1-1½ inch** ~~three-inch~~ caliper trees or greater needed to equal the diameter at breast height (dbh) of the removed tree. **In the event that replacement trees are not feasible on-site or off-site at a designated Township-owned site, a fee in lieu of planting may be allowed to be calculated based on the current market costs per caliper inches.** ~~The collection of the fees shall occur as prescribed in the following table:~~

<del>Caliper of Existing Tree Removed</del>	<del>Fee in Lieu of Planting</del>
<del>Less than 6 inches</del>	<del>\$50 per tree</del>
<del>Between 6 and 12 inches</del>	<del>\$100 per tree</del>
<del>Between 13 and 17 inches</del>	<del>\$200 per tree</del>
<del>Between 18 and 23 inches</del>	<del>\$300 per tree</del>
<del>Between 24 and 29 inches</del>	<del>\$500 per tree</del>
<del>Between 30 and 35 inches</del>	<del>\$750 per tree</del>
<del>36 inches or greater</del>	<del>\$1,000 per tree</del>

- b. **The replacement of trees, whether planted on-site or off-site, is preferred rather than the payment of a fee in lieu of planting. Payments in lieu of planting shall only be allowed if the applicant can prove to the Township's satisfaction that the replacement plantings are not feasible.**

**Section 4.** If any article, section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid in any court of competent jurisdiction, such decision shall not affect the remaining portions of this Ordinance and they shall remain in full force and effect, except so far as the section or provision so declared invalid shall be inseparable from the remainder or any portion thereof.

**Section 5.** In the event of any inconsistencies between the provisions of this Ordinance and any prior ordinance of the Township of Raritan, the provisions hereof shall be determined to govern, and the inconsistencies of the prior ordinance are hereby repealed. All other parts, portions and provisions of the Ordinances of the Township of Raritan are hereby ratified and confirmed, except where inconsistent with the terms hereof.

**Section 6.** The Township Clerk is directed to give notice at least ten (10) days prior to a hearing on the adoption of this ordinance to the Hunterdon County Planning Board and to all other persons entitled thereto pursuant to N.J.S.A. 40:55D-15, and N.J.S.A. 40:55D-63 (if required).

**Section 7.** After introduction, the Township Clerk is hereby directed to submit a copy of this Ordinance to the Planning Board of the Township of Raritan for its review in accordance with N.J.S.A. 40:55D-26 and N.J.S.A. 40:55D-64. The Planning Board is directed to make and transmit



to the Township Committee, within thirty-five (35) days after referral, a report including identification of any provisions in the proposed Ordinance, which are inconsistent with the Master Plan and recommendations concerning any inconsistencies and any other matter as the Board deems appropriate.

**Section 8.** This Ordinance shall take effect immediately upon: (i) adoption; (ii) publication in accordance with the laws of the State of New Jersey; and (iii) filing of the final form of adopted Ordinance by the Clerk with the Hunterdon County Planning Board pursuant to N.J.S.A. 40:55D-16.

### **CERTIFICATION**

**I HEREBY CERTIFY** that the attached Ordinance was adopted by the Township Committee of the Township of Raritan, County of Hunterdon, State of New Jersey on second reading at their meeting held in the Meeting Room of the Municipal Complex, One Municipal Drive, Flemington, NJ 08822 on April 16, 2024.

Donna Kukla, RMC  
Raritan Township Clerk